

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA, )  
                                  )  
                                  )  
                                  )    Case No. 3:04CR00023  
                                  )  
                                  )  
v.                                  )    **ORDER**  
                                  )  
                                  )  
COLIN F. GORDON, )    By: James P. Jones  
                                  )  
                                  )    United States District Judge  
                                  )  
                                  Defendant. )

For the reasons set forth in the Opinion accompanying this Order, it is  
**ORDERED** as follows:

1. The defendant's motion, styled as "MOTION PURSUANT TO Federal Rule Crim. P. 36," (ECF No. 266), is DENIED, and the defendant's submission is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C.A. § 2255;
2. The Clerk is DIRECTED to redocket the motion as a § 2255 motion;
3. The § 2255 motion is hereby DENIED without prejudice as successive and stricken from the active docket; and

4. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: December 10, 2012

/s/ James P. Jones  
United States District Judge